

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
Case No. 7:16-cv-30**

BONNIE PELTIER, as Guardian)	
of A.P., a minor child, et al.;)	
)	
Plaintiffs,)	JOINT STATUS REPORT
)	
v.)	
)	
CHARTER DAY SCHOOL, INC., et al.,)	
)	
<u>Defendants.</u>)	

The parties, through their undersigned attorneys, have conferred and hereby submit this Joint Status Report in accordance with the Court's text order of February 10, 2021, and state as follows:

1. This case stems from Plaintiffs' claim that Charter Day School's uniform policy, which imposes separate requirements for boys and girls, violates the federal Equal Protection Clause, Title IX of the Education Amendments of 1972, and various aspects of North Carolina state law by requiring female students to wear skirts, skorts, or jumpers while male students are allowed to wear pants or shorts. *See* DE 13.

2. On cross-motions for summary judgment, this Court issued an order on March 28, 2019. DE 216. Specifically, the Court (1) granted summary judgment to Defendants on the Title IX claim; (2) granted summary judgment (a) to Plaintiffs on the federal equal-protection claim as against Defendants CDS, Inc., and the individual Defendants, and (b) to Defendant RBA; and (3) denied both sides' summary judgment motions without prejudice on the state-law claims (breach of contract and equal protection under the North Carolina Constitution).

3. After further briefing from the parties on how to proceed, the Court entered partial final judgment under Rule 54(b) on the equal-protection and Title IX claims in order to facilitate

an immediate appeal. *See* DE 245. The partial final judgment includes an injunction enjoining Charter Day School from enforcing any uniform policy that requires female students to wear skirts, skorts, or jumpers instead of pants or shorts.

4. Thereafter, the parties each filed a cross-appeal before the United States Court of Appeals for the Fourth Circuit [DE 248, 249], which were consolidated as assigned Case Nos. 20-1001 and 20-1023. The case was argued before the Fourth Circuit on March 11, 2021.

5. On August 9, 2021, the Fourth Circuit issued its opinion [Nos. 20-1001 and 20-1023, DE 81], reversing this Court's grant of summary judgment to Plaintiffs on their equal protection claim on grounds that Defendants did not engage in state action in issuing the challenged provision of the Uniform Policy. The Fourth Circuit further reversed this Court's grant of summary judgment to Defendants on the Title IX claim and remanded for further proceedings on that claim.

6. On August 23, 2021, Plaintiffs filed a petition for rehearing en banc on the Fourth Circuit's ruling on their equal protection claim. [Nos. 20-1001 and 20-1023, DE 86]. The Fourth Circuit granted the petition on October 19, 2021. The case was heard en banc on December 10, 2021 and remains *sub judice*.

7. Magistrate Judge Kimberly Swank granted a stay of the district court proceedings in light of the pending cross-appeals. DE 256. That order also directed the parties to file periodic joint status reports in the district court while the case remains on appeal. *Id.* The stay remains in effect.

8. The parties filed the last joint status report on October 11, 2021 [DE 260]. The Parties will continue to submit a joint status report every four months or apprise the Court of any pertinent intervening developments.

Respectfully submitted, this 11th day of February, 2022.

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CERTIFICATE OF SERVICE

On February 11, 2022, I electronically filed the foregoing Joint Status Report with the Clerk of the Court using the Court's CM/ECF system, which will serve all counsel of record.

/s/ *Jonathan D. Sasser*
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